

Nelson, James

From: Nelson, James
Sent: Tuesday, November 28, 2023 4:39 PM
To: A SINCLAIR
Cc: Blume, Michael (USANYE); Dietert, Zachary A.
Subject: RE: [EXTERNAL] Trade Secrets Ingredients Confidential document
Attachments: B4B Earth Tea Proposed Stip & Protective Order_20231128.rtf

Mr. Sinclair:

Attached is a proposed protective order. Please let us know if you have any comments.

In addition, we would like to try to clarify, again, certain aspects of this case as you seem to misunderstand the basis of our allegations. What follows is a high level summary.

First, for present purposes, a “drug” under the law is defined not by what it contains but by what its maker and distributor said about it. Here, that your product may contain only natural ingredients (which we’ll assume for this email to be true) does not mean that it is a “natural supplement,” using your term. What matters is what you have said about the product. And our allegations are that you have said that it can treat disease. That is what makes it a drug. We thus do not have to prove that your product contains anything “unnatural” or illegal in itself to prove that your product is a drug.

Second, we have alleged that you made claims about your product without sufficient support. It is our burden (in short) to prove only that you made those claims and that you did not have support for those claims. We do not have to prove that your product does not work; we do not have to prove that anyone complained about your product; and we do not have to prove that your product harmed anyone.

Note that this high level summary does not cover the entirety of our case. We mean here to address only two specific misunderstandings, as we see it, that appear to drive many of your objections to our discovery requests.

Regards,

Jim Nelson
Senior Trial Attorney
U.S. Department of Justice
Consumer Protection Branch

From: A SINCLAIR <asinclairhg@gmail.com>
Sent: Tuesday, November 28, 2023 10:57 AM
To: Nelson, James <James.Nelson2@usdoj.gov>
Subject: [EXTERNAL] Trade Secrets Ingredients Confidential document

Mr Nelson.

Please as soon as possible please provide the confidentiality agreement or document as far as my ingredients goes.

Thank you.

Andrew Sinclair

On Mon, Nov 27, 2023, 5:06 PM A SINCLAIR <asinclairhg@gmail.com> wrote:

Mr Nelson,

Those Exhibits are so sad, in the end where is your evidence? I didn't see one evidence uploaded, you're trying to win on technicalities. My life and my future is not based on technicalities so therefore sir as long a I have life I will not stop fighting.

Respectful
Andrew Sinclair

On Mon, Nov 27, 2023, 4:53 PM A SINCLAIR <asinclairhg@gmail.com> wrote:

Mr Nelson,

How is it that I submitted my motion but your document got posted before mines? Guess I'll ask tomorrow... but my motion to compel was submitted

In General I object to anything that would expose my trade secret and that's my right.

Thank you
Andrew Sinclair

On Mon, Nov 27, 2023, 4:02 PM Nelson, James <James.Nelson2@usdoj.gov> wrote:

Mr. Sinclair,

Attached please find a letter to the Court and related correspondence that I filed by ECF this afternoon.

Regards,

Jim Nelson

Senior Trial Counsel

U.S. Department of Justice

Consumer Protection Branch

From: Nelson, James

Sent: Monday, November 27, 2023 3:10 PM

To: A SINCLAIR asinclairhg@gmail.com; Dietert, Zachary A. Zachary.A.Dietert@usdoj.gov; Blume, Michael (USANYE) MBlume@usa.doj.gov

Subject: RE: [EXTERNAL] Supplement response Admission and request

Mr. Sinclair,

Thank you for updating your responses to the United States' document requests and requests for admission. We note that you appear to have cured the deficiencies in requests for admission 3-9, 16-17, 30, 35-36, 44, 54, 60, 62, 64, 71-72, 76-78, 80, 92 and 95. However, numerous significant deficiencies that were identified in the United States' November 22, 2023 letter remain. In addition, fundamental deficiencies remain in your responses to the United States document requests, as illustrated by the fact that you have still not produced a single document in response to the United States' document requests. In addition to the previously-noted deficiencies, the United States notes that it is improper for you to withhold as "confidential" all documents relating to communications with customers and potential customers of B4B Earth Tea, sales information, shipment information, and information relating to receipt of ingredients, which you have done in your updated responses to document requests 1, 3, 7, 8 and 10. You have failed to identify any valid privilege or protection that would permit you to withhold such documents.

We intend to raise these deficiencies and those in our November 22, 2023 letter during our upcoming status conference with the Court.

Jim Nelson

Senior Trial Counsel

U.S. Department of Justice

Consumer Protection Branch

From: A SINCLAIR <asinclairhg@gmail.com>

Sent: Monday, November 27, 2023 12:20 PM

To: Nelson, James <James.Nelson2@usdoj.gov>; Dietert, Zachary A. <Zachary.A.Dietert@usdoj.gov>; Blume, Michael (USANYE) <MBlume@usa.doj.gov>

Subject: [EXTERNAL] Supplement response Admission and request

Mr Nelson,

Attached is your updated discovery information. It was sent to the other 2 emails you provided. Hope to hear from you tomorrow Mr Nelson, you have been missing the past conferences, Hope to get your response to the points I will bring forward..

Respectful Defendant

Andrew Sinclair..

November 27, 2023

On Wed, Nov 22, 2023, 4:38 PM A SINCLAIR <asinclairhg@gmail.com> wrote:

Mr Nelson,

I will respond with revised specifics as requested. My objection is firm and will filed with my motion to compel. I need to see proof why you're accusing me. Your accusations must have one of 2 or both. Or did you just pull your accusations out of the air

1. Consumer who reported fraud, scam or deception
2. Research, trial or study that was done to prove False or misleading accusations.

The natural supplement law clearly states, the burden of proof is on the United States. Before any information is given I would like to know why did you file the lawsuit against me? Who reported me? How did you come to the conclusion that I am a fraud?

As stated before, I will object to any additional time to try and find evidence, it's been almost 2 years since this case started and you should have evidence ready to go. At least evidence that backs up your accusations at least (One accusation)

The Plaintiff is ignoring the Natural supplement law. In the USA there's a natural supplement law and my product is a Natural supplement where the burden of proof is on the Plaintiff to show why you brought this case against me.

I know you are trying to say my product is a drug but there's no where in the natural Supplement Law does it say. "if a product cures, treat or prevent it's a drug"

I will supplement the responses with specific explanations but a firm response to your request is I need to see your evidence of how you came to the conclusion False and Misleading.

Andrew Sinclair

On Wed, Nov 22, 2023, 3:07 PM Nelson, James <James.Nelson2@usdoj.gov> wrote:

Mr. Sinclair,

Please find the attached letter concerning deficiencies in defendants' responses to the United States' discovery requests.

As an accommodation, we have also provided copies of the legal authorities cited in the letter.

Sincerely,

Jim Nelson

Senior Trial Attorney

U.S. Department of Justice

Consumer Protection Branch